

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID NATHANIEL ROBERTS,  
Plaintiff,  
v.  
LYNCH,  
Defendant.

No. 2:20-cv-1349 WBS DB P

## ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff claims defendants violated his rights by improperly taking funds from his prison trust account and withholding his legal mail. On April 19, 2021, the court issued findings and recommendations which recommended that this action be dismissed for failure to prosecute and failure to comply with court orders. (ECF No. 13.) Presently before the court are plaintiff's request for a copy of the complaint form (ECF No. 14) and his motion for extension of time (ECF No. 15). For the reasons stated below, the April 19, 2021 findings and recommendations will be vacated and plaintiff will be granted an extension of time to file an amended complaint.

By order dated January 15, 2021 the court screened the plaintiff's complaint. (ECF No. 9.) It found plaintiff's allegations failed to state a claim. ([Id.](#)) The complaint was dismissed with thirty days leave to amend. ([Id.](#)) On April 19, 2021, the undersigned issued findings and

1 recommendations which recommended that this action be dismissed due to plaintiff failing to file  
2 an amended complaint. (ECF No. 13.) Plaintiff filed a notice on May 10, 2021. (ECF No. 14.)  
3 Therein, he states that he was unable to file an amended complaint because he has not received  
4 “Amended Complaint” forms” needed to file an amended complaint. (ECF No. 14 at 1.)

5 Plaintiff is not required to file his complaint on a particular form. However, in light of  
6 the circumstances the court will vacate the findings and recommendations and grant plaintiff an  
7 extension of time to file an amended complaint. The court will further direct the Clerk of the  
8 Court to send to plaintiff a copy of the Prisoner Civil Rights Complaint form used in this district.  
9 In the future, plaintiff should be aware that he is not required to file his complaint on a specific  
10 form. Plaintiff should notify the court if he does not receive materials he believes he needs.

11 Good cause appearing, IT IS HEREBY ORDERED that:

12 1. The findings and recommendations filed April 19, 2021 (ECF No. 13) are vacated.

13 2. Plaintiff is granted sixty (60) days from the date of service of this order to file an  
14 amended complaint that complies with the requirements of the Civil Rights Act, the Federal Rules  
15 of Civil Procedure, and the Local Rules of Practice. The amended complaint must bear the  
16 docket number assigned to this case and must be labeled “First Amended Complaint.”

17 3. Failure to comply with this action will result in a recommendation that this action be  
18 dismissed.

19 4. The Clerk of the Court is directed to send plaintiff a copy of the complaint (ECF No.  
20 1), the court’s January 14, 2021 screening order (ECF No. 9), and the Prisoner Civil Rights  
21 Complaint form used in this district.

22 Dated: June 1, 2021



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25 DEBORAH BARNES  
26 UNITED STATES MAGISTRATE JUDGE  
27

28 DB:14  
DB:1/orders/prisoner/civil rights/R/robe1349.vac